

## **REMARKS**

Claims 1 – 22 are pending in this application.

Claims 1 – 5, 7, 8, 11 – 13, 16, 18, 20 and 21 have been rejected.

Claims 6, 9, 10, 14, 15, 17 and 19 have been objected to.

Claim 22 has been allowed.

Claim 21 has been amended.

### **Amendments to the Claims**

Claim 21 has been amended to correct a typographical error by changing “the recharging” to “the means for recharging”. This amendment provides proper antecedent basis for the “means for recharging” recited earlier in claim 21, line 9. No new matter has been added.

### **Oath/Declaration**

The declaration has been rejected under 37 CRF 1.67(a) as being defective. A new declaration is submitted herewith which applicant respectfully submits cures the defect.

### **Rejections under 35 U.S.C. § 112, 2<sup>nd</sup> Paragraph**

Claim 21 has been rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Applicant respectfully submits that with the amendment to claim 21 as detailed above providing proper antecedent basis for “means for recharging”, the grounds for rejection under 35 USC § 112, second paragraph, have been cured and claim 21 should no longer be rejected under 35 USC § 112, second paragraph.

### **Rejections under 35 U.S.C. § 102/103**

Claims 1 – 5, 7, 8, 11 – 13, 16, 18, 20 and 21 have been rejected under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,067,474 (“Schulman et al ‘474”). These rejections are respectfully traversed.

Schulman et al ‘474 discloses various embodiments of an implantable cochlear stimulator with a rechargeable power source. In one embodiment, illustrated in Figure 2, a coil 22 is located inside the case 12 of the implantable cochlear stimulator, with the coil closely tracing the inside surface of the case. Circuits 16 and a battery 14 are likewise contained within the case, and the battery is supplied from power delivered via the coil. This embodiment, however, does not show, disclose or suggest a recharging coil centrally located and substantially carried on the case’s proximal face. Instead, the disclosure of Figure 2 specifically shows that the coil 22 is inside of the case 12, and thus clearly is not on the case, and that the coil is not located centrally, but rather on the perimeter of the case, essentially the antithesis of being centrally located, as the coil is as far away from the center of the case as possible.

In an alternative embodiment disclosed in Figure 14, discloses a coil 172 attached via feedthroughs 176 to SP/PWR 162, and adhered to the SP/PWR unit and implantable cochlear stimulator 112 (column 16, lines 25 – 49). As depicted in Figure 14, not only is coil 172 not centrally located on SP/PWR 162, coil 172 is not located on or over a proximal face of SP/PWR 162 at all with the coil instead being located above, and thus being substantially carried on, implantable cochlear stimulator 112.

Thus, none of the embodiments of Schulman et al ‘474 show, disclose or suggest a recharge coil “centrally located and substantially carried on the housing proximal face” of the implantable medical device and “electrically coupled through which the housing electrical feedthrough to the electronics and rechargeable power source”, as required in claim 1, lines 9 – 11 of the present invention, with similar language in claim 21, lines 9 – 12 (without the electrical feedthrough limitation). The embodiment of Figure 2 discloses the coil carried internally with the coil wires tracing around the perimeter of the housing.

The embodiment of Figure 14 discloses the coil located not on the housing through which it couples using the feedthrough to the electronics and rechargeable power source, namely the SP/PWR, but rather located on the housing of a different implantable medical device, namely the implantable cochlear stimulator. Further, the coil is not centrally located relative to either of the implantable medical devices.

Thus, none of the embodiments of Schulman et al '474 show, disclose or suggest all of the required elements of claim 1, namely neither shows, discloses or suggests a coil centrally located and substantially carried on the housing proximal face of the implantable medical device through which housing it is electrically coupled via feedthroughs to electronics and a rechargeable power source. As Schulman et al '474 fails to show, disclose or suggest all of the limitations of claims 1 and 21, it is respectfully submitted that the rejection of claims 1 and 21 under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schulman et al '474 is improper and should be withdrawn.

Claims 2 – 5, 7, 8, 11 – 13, 16, 18 and 20 are dependent on claim 1, and as such incorporate all of the limitations of claim 1. Because the rejection of claim 1 under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schulman et al '474 is improper, it is respectfully submitted that the rejection of claims 2 – 5, 7, 8, 11 – 13, 16, 18 and 20 under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schulman et al '474 is likewise improper and should be withdrawn.

### **Allowable Subject Matter**

Applicant notes with appreciation the indication of allowable subject matter in claims 6, 9, 10, 14, 15, 17 and 19.

Applicant notes with appreciation the allowance of claim 22.

### Summary

In view of the arguments presented, claims 1 – 22 should be allowable, this application should be in condition for allowance and a notice to that is earnestly solicited.

Respectfully Submitted,

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